

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
WILLIAMSON COUNTY, ILLINOIS

Lynn D'Angelo,)
)
Plaintiff)
)
Vs.)
)
Mark Vaught and Timothy Vaught,)
)
Defendants.)

No. 21-CH-29

FILED

APR 02 2025

WILLIAMSON COUNTY
CLERK OF THE CIRCUIT COURT

Mark Vaught,)
)
Counter-Plaintiff,)
)
Vs.)
)
Lynn D'Angelo,)
)
Counter-Defendant.)

ORDER IMPOSING SANCTIONS

This matter having come before the Court on its own motion for the imposition of sanctions against attorney Scott Walker of SK Walker Law, LLC, and the Court having considered and analyzed the conduct of attorney Walker as well as the applicable law, finds as follows:

The cause is a dispute between Mark Vaught and Lynn D'Angelo as to the operation of a certain trust. During the course of the litigation there has been substantial motion practice. This order arises from the January 3, 2025 and October 18, 2024 filings by attorney Walker and the representations he has made to the Court regarding his conduct.

I. History

This matter has to do with the citation of *Hauter v. DeWitt*, 73 Ill.App. 3d 263 (sic) by attorney Walker. Initially, the Court believed that citation was found only in the Response to Motion to Dismiss Second Amended Counter-Complaint filed 1/3/25 (Page 8, Paragraph 20). However, in preparing this Order, the Court determined that was incorrect. Attorney Walker also cited that case, with a purported quotation from it, in the Response to Motion to Dismiss First Amended Counter-Complaint, filed 10/18/24. (Page 7, Paragraph 18).

II. *Hauter v. DeWitt*

In preparation for the motion argument on 1/29/25, the Court attempted to read *Hauter v. DeWitt*, which was cited by attorney Walker. The citation, 73 Ill.App. 3d 263, led nowhere. The Court attempted to find the case using Fastcase, and when that was unsuccessful, using a Google search. The search was conducted via both name and citation. As that was unsuccessful, the Court then found a copy of the

Illinois Appellate Court Reports, Vol. 73, 3rd Series (1979). The page number in Attorney Walker's citation corresponds to the middle of *Doty v. City of Rockford*, 73 Ill.App. 3d 255 (2nd Dist. 1979). Suspicious that the case did not exist, on 1/29/25, the Court ordered attorney Walker to provide the Court with a copy of the case within 7 days. On 2/5/25, he filed a response to the Court's order. No copy of the Hauter case was provided. No actual response was made. Rather, attorney Walker indicated that he meant to cite *Harvey v. Harris Trust*, 73 Ill. App. 3d 280. Recognizing that the response did not comply with the Court's directive, on 2/10/25 the Court gave attorney Walker 5 additional days to provide a copy of Hauter. Rather than doing so, on 2/14/25 at 11:02 pm, Walker filed a document captioned Response to Motion to Dismiss Second Amended Counter-Complaint-Corrected without leave of Court and a Motion to file that document. (These documents bear file-marks of 2/14/25, but appear on the document list as filed 2/18/25). The Court will detail more about that filing below. However, once again, the Court was not provided with a copy of the Hauter case. Additionally, at no point in the 2/14/25 Motion to Amend and the Response did attorney Walker acknowledge that the Hauter did not exist.

The Court denied the Motion to Amend, with leave to refile, and ordered attorney Walker to file an affidavit detailing how a fictitious case was cited to the Court. He filed that affidavit on 3/17/25 and also another Response to Motion to Dismiss Second Amended Counter-Complaint-Corrected. That same day, he filed a Motion to Amend Response to Motion to Dismiss Second Amended Counter-Complaint to Correct Clerical Errors. In the 3/17/25 affidavit, for the first time, attorney Walker concedes that Hauter is a "non-existent case). Affidavit of Walker, Page 2, Paragraph 6(a).

The Court is confident that the case is non-existent.

III. Walker's Explanation

Attorney Walker was given two opportunities to either produce a copy of Hauter or admit he directed the Court to a non-existent case. Walker in the various pleadings states that Hauter was placed into the 1/3/25 pleading, which he states he drafted, as a placeholder for the Harvey case. He then states in his affidavit that he uploaded that draft, with the placeholder, to Archie, a closed AI developed by Smokeball to "enhance text, improve the documents readability, and expand its content where necessary." Attorney's Affidavit, 3/17/25, Paragraph 4(a). It is at that point that Archie "inadvertently altered or incorrectly replaced" some case citations.

The problem with attorney Walker's explanation is that it wholly ignores his October 18, 2024 Response to Motion to Dismiss First Amended Counter-Complaint, where he not only cites Hauter, but actually quotes from it. (Page 7, Paragraph 18). The page number cited to support the quotation is one that is outside the page range of the *Harvey* case (73 Ill.App. 3d 274 versus *Harvey* which is found at 73 Ill.App.3d 280-288). The Hauter citation was submitted to the Court twice. Had the Court not raised the issue, the non-existent citation would remain.

IV. Analysis

The Illinois Courts will be vigilant against AI technologies that jeopardize due process, equal protection, or access to justice. Unsubstantiated or deliberately misleading AI generated content that perpetuates bias, prejudices litigants, or obscures truth-finding and decision-making will not be tolerated. *Illinois Supreme Court's Policy on Artificial Intelligence, Effective January 1, 2025*.

The Court acknowledges that this policy had not been released when the October pleading was filed. However, there is no question that at the time both documents were filed the Rules of Professional Conduct were in force. An attorney by their signature certifies the pleading is well grounded in law.

As to the January pleading, the Policy was in effect. Attorneys, judges, and self-represented

litigants are accountable for their final work product. All users must thoroughly review AI-generated content before submitting it in any court proceeding to ensure accuracy and compliance with legal and ethical obligations. Prior to employing any technology, including generative AI applications, users must understand both general AI capabilities and the specific tools being utilized. (Policy on Artificial Intelligence). Here, there is no doubt that attorney Walker on two occasions cited to the Court a non-existent case. He either (1) failed to proof-read two documents he states he drafted; (2) failed to note that Archie added in a citation he did not intend; (3) failed to understand how Archie works; or (4) intentionally cited to and quoted a non-existent case. Whether he did so intentionally or by negligence is of little moment to the Court. What is significant is that he filed two pleadings which, considering the facts most favorable to him, he failed to proofread.

Bottom line, no matter how it happened, attorney Walker twice directed the Court to a non-existent case in pleadings he filed. He did not locate the error and try to fix it. Rather, the Court located the errors. The Court finds that the conduct is such that a sanction is warranted.

V. Sanction

Supreme Court Rule 137 provides in part:

...The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other document; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

Rule 137 authorizes a trial court to award sanctions under certain circumstances. If a pleading, motion, or other document is signed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion or other document, including a reasonable attorney fee. Rule 137 sanctions may be granted when either party files a pleading or motion that, to the best of the attorney's knowledge, information, and belief, is not well-grounded in fact and is not warranted by existing. *Miller v. Bizzell*, 311 Ill.App.3d 971, 976, 726 N.E.2d 175, 179 (2000).

Consistent with Rule 137, factors a trial court may consider include (1) the degree of bad faith by the opposing party, (2) whether an award of fees would deter others from acting under similar circumstances, and (3) the relative merits of the parties' positions. *Miller*, 311 Ill.App.3d at 976.

Here, the Court on its own initiative choose to impose sanctions for the citation in two pleadings to a non-existent case. The Court assesses the sanctions against attorney Walker only.

¶ 29 Rule 137's purpose is to deter frivolous pleadings or suits with no basis in law, not to penalize an unsuccessful party. *Miller*, 311 Ill.App.3d at 976. The decision whether to impose sanctions under Rule 137 rests within the trial court's sound discretion. *Morris B. Chapman & Associates, Ltd. v. Kitzman*, 193 Ill.2d 560, 579, 739 N.E.2d 1263, 1275 (2000). The Court has struggled with the appropriate sanction here. The Court does not believe that attorney Walker intended to mislead the Court. At the same time, the Court should be able to rely that counsel have read the cases cited to the Court. The Court cannot turn a blind eye to the facts of this case.

In its discretion, the Court sanctions attorney Walker the sum of \$2,000 (\$1,000 for each citation) to be donated to the Lawyers Assistance Program within 30 days. Attorney Walker shall submit a receipt to the Court reflecting payment within 7 days of receipt.

The Court understands that attorney Walker claims he fully authored the January 3, 2025 pleading. The Court accepts that statement. However, even if an AI program did not draft the pleading, attorney Walker admits that it was given the opportunity to edit his work. The Court has a good understanding of the abilities and limitations of generative AI. This decision is a statement by the Court that it expects counsel to fully understand the applications supported by generative AI which are allowed to review, edit or draft a pleading to be filed with the Court. This case illustrates the risks of not knowing what work product can be produced by a chosen artificial intelligence program.

IT IS HEREBY ORDERED:

1. The Court imposes a \$2,000 sanction upon Scott Walker for citing a non-existent case to the Court on two separate occasions. The payment shall be made to the Lawyers Assistance Program of the state of Illinois.

ENTERED: This 2nd day of April, 2025.



ASSOCIATE CIRCUIT JUDGE